The Hampden Hippocrat

A Bulletin for the Hampden District of the Massachusetts Medical Society

VOLUME XIX NOVEMBER, 1963 NO. 9

MEDICO-

LEGAL

ISSUE

MEMBER
MEDICAL SOCIETY
MAGAZINE GROUP

Hampden District Medical Society

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The Hampden Hippocrat

"Life is short and art is long, the occasion fleeting, experience fallacious and judgment difficult."
Hippocrates

Founded in 1942 by Drs. Edward P. Bagg and William A. R. Chapin, and published monthly except July and August.

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THE HAMPDEN HIPPOCRAT, NOVEMBER, 1963

EDITORIALS

OUR LEGAL RESPONSIBILITIES
by Leon M. Kruger, M. D., Chairman
Committee on Medico-Legal Affairs

At no time in the history of medicine were the legal complexities and risks of our profession so numerous as they are today. The first reported medical malpractice suit in the United States took place in 1794. Following this, the rate of increase in cases at first was relatively slow; however, between 1930 and 1940, the incidence jumped tenfold as compared with the previous decade, and the same happened between 1940 and 1950. Since then, the problem has become even more serious. An A. M. A. survey of 1957 found that, at some time during his professional career, one out of every seven physicians was a defendant in a professional liability action. Other surveys in some of the more densely populated parts of the country have placed the incidence as high as one out of every four physicians. Although the fault lies largely elsewhere, " . . . the physician himself must share the responsibility for the continuing existence of the unpleasant professional liability situation. Many physicians have been satisfied to pay their professional liability insurance premiums and thereafter sit back complacently, doing nothing until they become a target. Every physician must be brought to realize that this money payment is only a part of his insurance program; a much more important part is his

contribution of time, study, and attention to put into effect all possible measures to safeguard the patient, himself, and his colleagues. Professional liability is in no sense merely an insurance problem — it is a medical program and must be combated by members of the medical profession." (A.M.A.'s Committee on Medico-Legal Problems, J.A.M.A., Feb. 23, 1963.)

Still another situation in which the physician may find himself defendant is the much less publicized but equally important suit for assault which may be leveled at the unsuspecting physician who finds himself unchaperoned in his office with a female patient. Such a situation is extremely dangerous and leaves the physician open to any accusation such patient may level. At the other end of the assault complaint is the surgeon who, while operating let's say for acute appendicitis, decides to carry out other abdominal surgery without the patient's prior consent. These are probably less frequently encountered areas of suit but the responsibility here, too, lies solely with the physician.

In practically all other medico-legal areas, the physician is involved as witness rather than litigant, but even here our responsibilities are tremendous. Most physicians are cognizant today of the fact that their duties to the patient do not end with the prescription, the hypodermic, or the scalpel, regardless of how skillfully employed. Our first legal responsibility is the maintenance of complete records, including history, physical examination, and also progress notes on each visit of the patient. Moreover, we should be prepared, on proper request and authorization of the patient, to submit reports to attorneys and/or insurance companies as indicated. On the other hand, no information should ever be made available to the patient's antagonist unless specifically directed by the patient. Finally, when properly notified in advance and suitable arrangements have been made, he should be prepared to appear in court to testify on behalf of the patient.

It is perhaps this last responsibility from which most of us shy away. Certainly, the court presents an area of unfamiliar ground to most of us; however, it is not an entirely unfriendly domain. Properly prepared, the physician need not fear it. A thorough review of the records to familiarize himself with the contents is certainly helpful prior to appearance in court. Reliance on the written record rather than on memory will serve to prevent conflicting testimony during cross-examination. Thus, forearmed with a knowledge of the case, and fortified by the written record, testimony becomes greatly simplified, and one need not fear being confused by cross-examination or giving contradictory answers if these are always made after referring to the written record.

Our by-laws provide that the Committee on Malpractice and Medico-Legal Affairs " . . . shall confer, when requested, with members on matters of litigation," and " . . . shall meet with a similar committee of the Hampden Bar Association on medico-legal problems." We have been fortunate in receiving the complete cooperation of the Hampden District Bar Association. As evidence, we need but cite our frequent joint meetings with members of that organization; the mock trial which they helped us stage in 1961; the "Who Pays the Bill?" form (page 12) which we jointly formulated; and finally Attorney Thomas J. Donoghue's splendid message, which appears elsewhere in this issue.

It is sincerely hoped that all members of the Society will first of all recognize all the legal responsibilities to their patients. It is further hoped that this committee can be of aid to the membership, because it is to this end that its efforts are primarily directed. #

What the Lawyer Should Expect of the Doctor and Vice Versa

by Attorney Thomas J. Donoghue, Chairman
Medico-Legal Committee, Hampden County Bar Association

Probably the most annoying call the busy physician can receive would go something like this: "Hello, Doctor this is Bob Black, Mrs. White's attorney. I'll need you in Court tomorrow to testify in her case." The first question you must resolve is who is Mrs. White and the second, who is Black? If you are right in the midst of examining a patient, I am sure you think White is Black and Black is White, if you even care at this point. This type of call is unusually annoying for the physician who rarely appears in Court. The Orthopedic specialist has probably become accustomed to it as has the general practitioner and general surgeon who is apt to examine frequently for an insurance company or has become amenable to examining and treating prospective litigants. In reality no physician is deserving of such treatment.

If, on the other hand, a timely call has been made well in advance to your office and your secretary or nurse requested that your records be brought to your attention, a later call after your treatment hours should start things off on an even keel. The litigant's attorney is then entitled to a courteous reception. If both the attorney and physician are experienced in matters of court, a telephone call might suffice to cover the matters essential to trial. If the matter involves the slightest complication, then both attorney and doctor should arrange to meet at convenient time, usually after the conclusion of office hours. If further examination is needed, then it should be suggested and completed prior to trial. From then on the burden falls upon the attorney to keep the physician informed as to the approximate time he will be needed. With today's crowded court calendar it is almost impossible to predict with any degree of certainty when a prospective trial will actually commence. This seems hard for those not familiar with our courts to comprehend. The best that an attorney can do is make an educated guess and then advise the doctor daily up to the eve of his appearance. Most courts are quite agreeable once trial has commenced to permit the physician to testify out of order. In some cases, either party may find this undesirable from the point of trial tactics and technique and thus not permit it. For the average trial with experienced counsel on both sides, it is frequently done. This will reduce the amount of court time expended by the physician.

At the conclusion of his testimony, if excused, the physician should immediately leave, but promptly forward his bill for his testimony in order that it may be included as a part of trial expense. Whether the attorney be for plaintiff or defendant, he or she will appreciate a prompt bill in order that it may be brought to the attention of the client. If the case should be settled prior to the physician testifying, he should be advised. If not advised,

inquiry should be made.

If the attorney acts as above in the bulk of his cases, then he should be excused the occasional lapse attributable to human error. If the attorney acts as outlined above, he is entitled to the cooperation of the physician as both are parts of a team not only protecting the interest of a client but attempting to serve the cause of justice. While those words are extremely trite and overworked, no system based on inquiry into facts can succeed unless all the facts are presented fairly and impartially by individuals seeking to do their duty.

#

COMING EVENTS

HAMPDEN DISTRICT MEETING, DECEMBER 3, 1963 (page 13)

EXECUTIVE COMMITTEE MEETINGS, NOV. 19 and DEC. 17, 1963

COUNCIL OF THE M. M. S., FEBRUARY 12, 1964

SPRINGFIELD ACADEMY OF MEDICINE, DECEMBER 10, 1963

A. M. A. CLINICAL MEETING, PORTLAND, OREGON, DEC. 1 - 4, 1963

NEW ENGLAND CARDIOVASCULAR SOCIETY, BOSTON, NOV. 18, 1963

CLINICAL MEETING OF THE AMERICAN COLLEGE OF CHEST PHYSICIANS, PORTLAND, OREGON, NOV. 30 and DEC. 1, 1963

NEW ENGLAND CARDIOVASCULAR SOCIETY, NOVEMBER 18, 1963
SYMPOSIUM on "PRIMARY MYOCARDIOPATHIES"
Museum of Science Auditorium, Science Park, Boston

N. E. CHAPTER AM. COLLEGE OF CHEST PHYSICIANS,
NOVEMBER 30, 1963, ST. VINCENT'S HOSPITAL, WORCESTER

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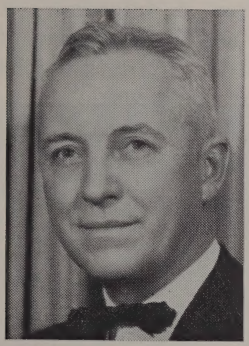
President's Page



Safeguarding our Principles

The Code of Ethics of the American Medical Association is too well known to be reprinted here. Most of us may be unfamiliar with its exact phraseology, but we are all well aware of the significance of its basic principles.

How little have medical ethics changed since first promulgated by Hippocrates! Because the Code has become more liberalized to conform to "modern day changes" there are some who claim that we have regressed in our professional dedication and altruism. But by and large each of the ten sections of our modern Code can find their analogues in the Oath of Hipprocrates.

It is gratifying to note that the large majority of our members adhere strictly to the spirit of our Code of Ethics. Very few violations are found to exist when complaints are scrutinized by your Grievance Committee. In the light of the high level of conduct we impose upon ourselves it may be well to re-read the Publicity Guide of our State Socity, which in part reads:

> A fellow in his statements, articles and interviews with the press should avoid excessive mention of his professional qualifications in identifying himself.

Transgressions of this and other rules of the Publicity Guide can only lead to a lowering of the dignity of the individual and the Society of which he is a part. When a doubt exists as to the propriety of a release, your Public Relations Councilor is always anxious and willing to be of service.

Martin B. Murray, M.D.

MEDICO-LEGAL TERMS

Circumstantial Evidence: Evidence from which the existence of a principal fact in a case (not otherwise proved) may be inferred.

Contributory Negligence: Any want of ordinary care on the part of the plaintiff which combines and concurs with the defendant's negligence, and without which no injury would have occurred.

Criminal Negligence: Such a flagrant reckless disregard of the rights of others as to be punishable by fine or imprisonment when death or bodily injury occurs.

Damages: Pecuniary compensation awarded to a person who has suffered loss, detriment, or injury through the unlawful act, omission, or negligence of another.

Hypothetical Question: A question based on a combination of assumed or proven facts so stated as to constitute a specific situation for expression of an opinion by an expert witness as evidence in a trial.

Negligence: The doing of something, or omission to do something that a reasonable prudent person would not do, or would not omit to do, in the circumstances.

Physician-Patient Privilege: A patient's right to prevent his physician from testifying as to any information acquired in attending the patient which was necessary in prescribing or acting in his behalf.

Res Ipsa Loquitur: The thing speaks for itself. Rebuttable presumption that defendant was negligent, which arises upon proof that instrumentality causing injury was in defendant's exclusive control, and that the accident was one which ordinarily does not happen in absence of negligence.

Tort: A private legal wrong not involving contract. The three elements are: existence of a legal duty from one person or another, breach of that duty, and an injury or wrong as a proximate result.

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EXECUTIVE COMMITTEE MEETING
(Highlights)

The meeting was called to order at 8:00 P.M. Present were Drs. Murray, Miller, Turner, Byrnes, Griffin, Miner, Bandeian, Memery, Suzor, Williams and Mills.

It was noted that instruments have been collected for the U.S.S. Springfield. A delegation will deliver them in person to the ship on October 23, 1963.

After reading two letters of complaints about the last District meeting, it was decided to have the Business meeting first, at the December meeting.

Dr. Byrnes gave a lengthy report of the first meeting of "Operation Hometown;" held on October 11, 1963.

Dr. John Turner has been appointed to the Steering Committee of the National Health Survey being held in Springfield.

Dr. Bandeian gave a brief report of the plans for the December meeting.

Diabetes Detection plans have been completed for the week of November 17-23.

Six grievances were heard. Meeting adjourned at 10:30 P.M.

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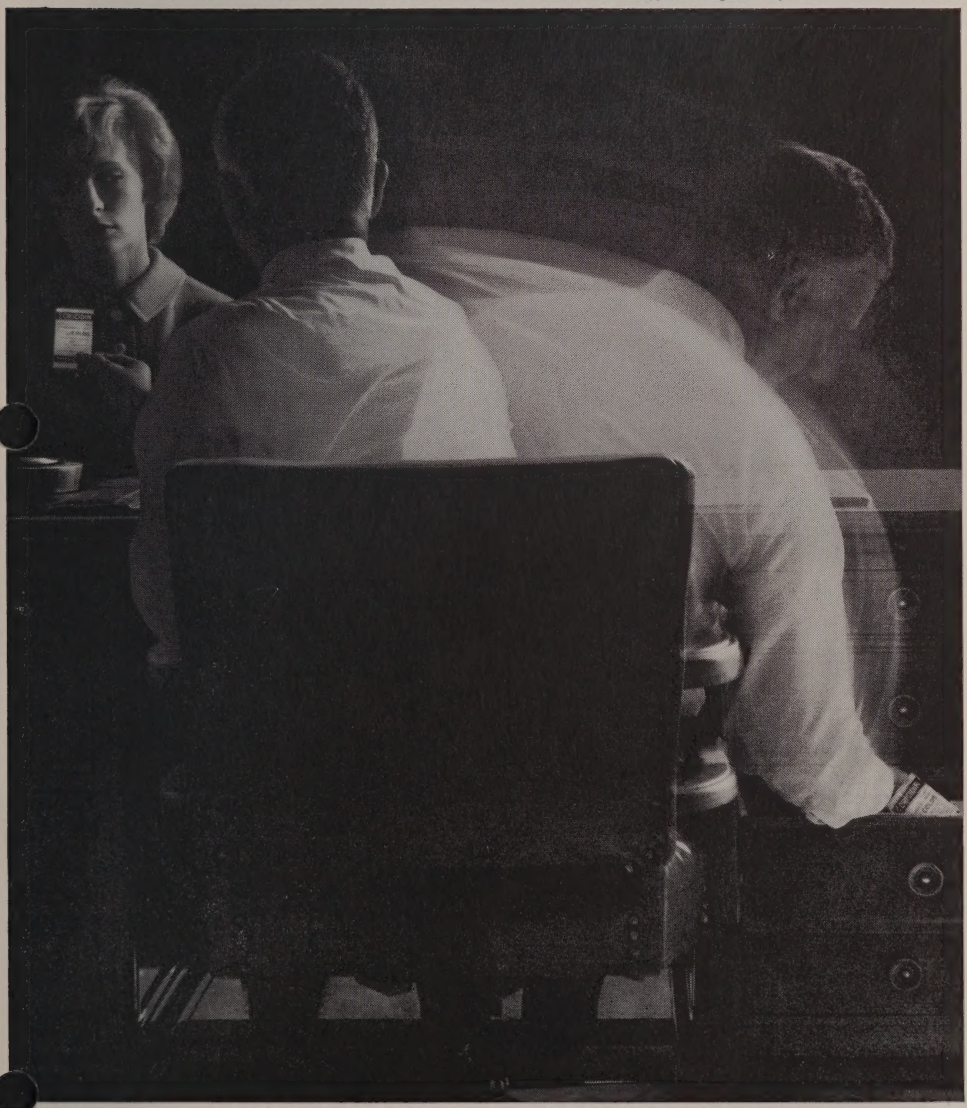

MEDICO-RELIGIOUS COMMITTEE

A Medico-Religious Committtte meeting was held on Tuesday, October 1, 1963. Members present were Rev. Clayton Steele and Rev. Paul Woodbury, and Drs. Harry Michelson and Tom McCarthy. Unfortunately, a meeting at the Mercy Hospital kept away some of the other members of the committee, particularly Father Russell and Dr. Francis Teta. Nevertheless, we had a very interesting discussion on a stimulating topic, namely, to what extent one should reveal the prognosis and ultimate end to a patient who is stricken with a fatal illness and whose duration of life is a matter of a short time? There was a rather lively discussion and a great deal was said in regard to a person's psychologic and psychiatric make-up and the point of view of the theologian. The second half of this assignment was to have been conducted by Father Russell and Dr. Teta. We hope to carry this on at the next meeting which is to be held on November 26, 1963. At this meeting we plan to discuss topics such as the psychological approach of the reasonably well patient. The clergy are to discuss the problems of spiritual manifestations on the concept of guilt.

On Wednesday, October 2, 1963, I attended the State Committee on Religion and Medicine where Dr. A. J. Campbell presided. Doctors Allen Johnson, Urban Eversole, Jacob Fine, and I represented the entire committee. This meeting was mostly exploratory in nature. A definite program for setting up in other Districts committees similar to the one in Hampden District, will be brought out in the next meeting or two.

John J. Bandeian, M. D.
Chairman

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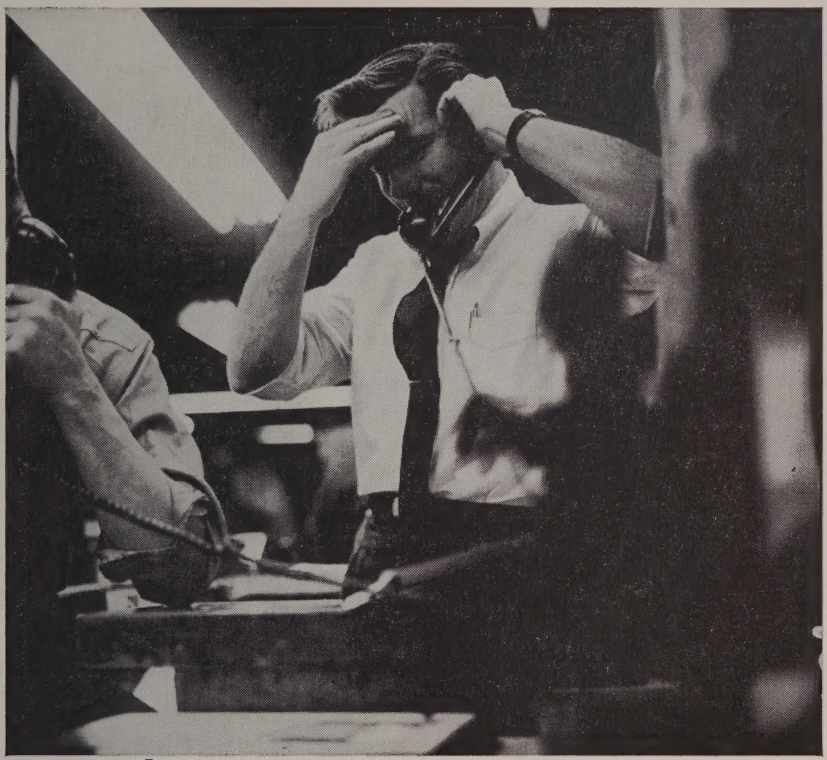

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Cautions: Severe mental depression has appeared in a small percentage of patients, primarily in a dosage above 1 mg. daily. Usually the patient had a pre-existing, incipient, endogenous depression which was unmasked or accentuated by reserpine. When the drug is discontinued, depression usually disappears, but hospitalization and shock therapy are sometimes required. Daily dosage above 0.25 mg. is contraindicated in patients with a history of mental depression or peptic ulcer. Withdraw Serpasil (reserpine) 2 weeks before surgery, if possible. For emergency surgical procedures, vagal blocking agents should be given parenterally to prevent or reverse hypotension and/or bradycardia.

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HAMPDEN CAPSULES

Meetings held during October

Operation Hometown, October 11, 1963, 8 P.M., Dr. Emery.

Executive Meeting, October 15, 8 P.M.

By-Laws Committee, 12 noon, Dr. Millman.

Medico-Legal, October 22, Dr. Kruger.

Public Relations, Dr. Byrnes, October 23, 8 P.M.

Insurance, Labor Relations, Dr. Shea, 8 P.M.

Public Health Committee, 12 noon, October 30, Dr. Pokorny.

Diabetes Detection Week was saluted at the J.C.A. Breakfast on November 6 at 8 A.M. Dr. John Maloney took the salute at head table.

Dr. Byrnes spoke at Old First Church to a group of ladies on Medical Care of the Aged. About 70 women were present.

Dr. Maloney is scheduled to be on T.V. with Kitty Broman on November 14, on Diabetes Detection.

Dr. Sam Feldman spoke at the Zonta Club Monday, October 21 on Medical Care of the Aged.

Dr. Jerome A. Whitney spoke on October 23, on Mentally Retarded Children, at 820 State Street, 8 P.M.

If you speak before lay groups, please notify the Society office. A record is being kept and a monthly report is sent to the M.M.S. If any club, you know, needs a speaker, contact H.D.M.S.

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JOINT MEDICO-LEGAL COMMITTEE

Left to Right, Standing: Dr. Leon Kruger and Attorney William Godfrey
Left to Right, Sitting: Attorneys Sherman Fein, Tom Donoghue, and Dr. Joseph Angelica.

"WHO PAYS THE BILL?"

(Formulated by the Joint M-L Committee)

When the patient engages a physician for diagnosis and treatment, it is inherent in the contract between the patient and physician, whether written or oral, that the patient is responsible for payment of such charges as the physician may make for his professional care.

In the medico-legal case in which the patient is seeking to recover for injuries sustained and in which the claim is being handled by an attorney, the question has arisen, who is liable for the bill — the patient or the attorney. The medico-legal nature of the situation does not alter the responsibility of the patient to pay his bill; however, it is possible to assure payment of

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the bill by the attorney if one uses the following form:

> I, ..., hereby authorize and direct ....., my attorney, or attorneys, to pay from the proceeds of any recovery in my case to .... the reasonable amount for professional services in the treatment of injuries sustained by me and/or my wife and/or my child or children, as the case may be, in an accident which occurred on ....., 19....., said payment to include professional services heretofore rendered and those rendered to the time of the settlement or other disposition of my case for the treatment of said injuries, and fees for testifying in court.
>
> I further authorize said Doctor to furnish said Attorney with any reports he may request in reference to my injury. I understand that this in no way relieves me of my personal responsibility to pay all such medical charges.

This form then is an agreement between patient, attorney, and physician in which the patient authorizes the attorney, on recovery of any damages, to pay such bills as the patient may have incurred with the physician. This also then becomes a contract between physician and attorney. In such a case, the attorney can then be held liable for payment of the bill. Without such a contract however, the payment of the bill remains the responsibility of the patient.

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NEXT HAMPDEN DISTRICT MEETING

TIME: Tuesday, December 3, 1963

AGENDA: Business Meeting 6 p.m.
followed by
SOCIAL HOUR AND DINNER
followed by
SURPRISE PROGRAM

PLACE: Oaks Banquet House
Boston Road, Springfield, Mass.

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Harry Memery, M.D.
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K-M SYMPOSIUM HELD

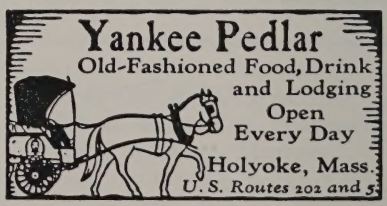
A Kerr-Mills Symposium, sponsored jointly by the J.C.A. and the H.D.M.S., was held on Tuesday evening, October 29, 1963 at the Sheraton Kimball Hotel. Speakers were Mr. Elliott Richardson and Mr. Thomas McEhlone. The following points were brought out by the speakers and during the discussion that followed:

Four million dollars every month are dispensed under the program in Massachusetts, and the figure will rise rapidly for several years.

Twenty-two thousand needy old folk are now receiving Kerr-Mills benefits in Massachusetts, at about 200 dollars per person per month.

The Kerr-Mills program is much broader than King-Anderson. Kerr-Mills provides indefinite care if needed, not just the 180 days of King-Anderson.

If the King-Anderson bill were enacted, the Kerr-Mills program would still be needed to back it up. The King-Anderson bill would cover only about one third of our present Kerr-Mills



COMPLIMENTS

Ernest A. Byron

SPRINGFIELD

costs.

Eligibility for Kerr-Mills benefits is determined by each state.

In Massachusetts a single person 65 or over with income of less than $150 monthly and less than $2,000 in assets is eligible. In addition he may own his own home and have life insurance.

A couple is eligible with income up to $225 per month and $3,000 in assets.

State funds must match the federal funds to some extent, and this has slowed the spread of state participation even though in the poorest states the federal government will pay $4 for every $1 contributed by the state.

At present 84% of all disbursements are in four states, California, Massachusetts, Michigan, and New York.

One half the people in Springfield receiving Kerr-Mills help were previously on Old Age Assistance.

Williams

MATERIAL AVAILABLE

The American Medical Association has issued thirteen one half hour recordings on Mental Health and allied conditions. If you would care to use this series in your programs I shall be pleased to see that you get them.

Following is a list of titles: 1. Treating Mental Illness; 2. Narcotic Addiction; 3. Alcoholism; 4. Law and Psychiatry; 5. Juvenile Delinquent; 6. Children; 7. Community Mental Health; 8. Socio Paths; 9. The Family; 10. The Nature of Mental Illness; 11. Mental Retardation; 12. Research, and 13. The Aged.

Jerome A. Whitney, M.D.,
Chairman
Mental Health Committees

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Despite brilliant pioneer work on the nature of the virus, our knowledge of the "smallest assassin" is still largely speculation. And because of the general futility of therapeutic measures, the most effective procedure is still the establishment of immunity *before* a virus invasion occurs.

Pfizer's work in the field of immunology is modern and expanding. For all practical purposes it was launched in 1958 with the licensing, by the National Institutes of Health, of a monovalent Asian influenza vaccine. Later in the year, polyvalent types A and B containing four virus strains were licensed and marketed.

In 1959, Pfizer introduced an improved high-potency Salk polio vaccine and rapidly became one of the largest suppliers of this material.

Company virologists, meanwhile, had been working with Doctor Sabin on oral polio vaccine. By the end of 1961, Types I and II had been licensed and they were followed by Type III early in 1962.

Research on a measles vaccine had also been in progress, based on the achievement of John Enders and his associates in isolating the virus and in developing the original tissue culture methods needed to grow the virus in quantity. Four years of intensive research bore fruit in March, 1963, with the licensing of a killed-virus measles vaccine. Behind it were two years of clinical testing covering more than 17,000 children in nearly 100 cities.

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Under Government contract, research is now being pressed toward the development of vaccines for a number of respiratory infections, including the common cold.

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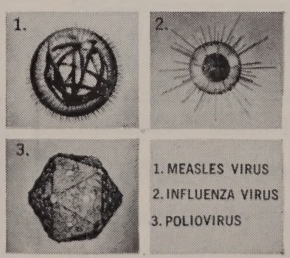

YOUR PROFESSIONAL LIABILITY

(Editor's Note: With this issue the Hampden Hippocrat inaugurates a monthly series of questions and answers pertaining to the legal risks of medical practice. The Q's and A's published below, as well as those to follow, are derived largely from material furnished by the American Medical Association.)

Q — Is a physician adequately protected by a consent which authorizes him to perform whatever surgery or other procedures he deems advisable?

A — A general consent form of this nature is virtually of no value. The courts are likely to construe it as an authorization of such procedures as have been agreed upon orally between the physician and the patient. In that event, a jury may very easily choose to believe the "forgetful" patient whose recollection regarding the treatment he authorized has been dimmed by time or circumstance. The written consent should recite, with reasonable latitude, the nature of the operation to be performed and should authorize such extensions of the operation as may be found to be medically advisable after start of the operation.

Q — To what extent must a physician or surgeon advise a patient of the risks involved in a proposed treatment to avoid liability on the basis that the patient consented to the treatment without a full understanding of what was involved?

A — To avoid possible liability, the ordinary and foreseeable risks must be spelled out in detail. It is advisable to state clearly that no assurance of results is given. In the case of thyroidectomy, for example, it should be explained that the patient may lose his voice, that his bulging eyes may persist, and that other specific risks, if any, may be involved. It is advisable that a patient sign a statement acknowledging that he understands these risks. In the absence of such "informed consent" a court may hold that the patient's consent, written or oral, is legally ineffective because the patient did not know the nature and possible consequences of the procedure to which he gave his consent.

Q — Is there a great risk of legal liability if a physician gives roadside emergency medical care to a victim of an automobile accident?

A — The risk of liability for furnishing such emergency medical care has been greatly exaggerated. There are few, if any, reported cases in which a physician has been held liable as the result of giving emergency care to victims at the scene of an accident.

Q — If a physician tells a patient that a proposed treatment will cure a patient's ailment, is the physician legally liable if the treatment does not cure the ailment?

A — Although a physician does not guarantee a cure or good results merely by undertaking treatment, he may be liable for breach of contract if he agrees to cure a patient's ailment and fails to do so.

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Left to Right: Miss Marie Keeley, Lt. Commander Richard D. Collier, Mrs. Vivian M. Purdy, Mrs. Charles Diamond, Mrs. Emanuel Wiedman and Lt. Harvey N. Lozman.

Our District Society recently collected a large number of used medical instruments for the U.S.S. Springfield, flagship of the Mediterranean, to be delivered to needy countries in that area. These instruments were presented to the ship at the Brooklyn Navy Yard by a group of ladies representing the Medical Society: Mrs. Charles Diamond, President of the Woman's Auxiliary to the H.D.M.S., Mrs. Emanuel Wiedman, Vice-President and President-Elect of the Auxiliary, Mrs. Carlo Montori, the Auxiliary's correspondent to the Hippocrat, Miss Marie Keeley, President of the Hampden District Association of Medical Assistants and Mrs. Vivian M. Purdy, Executive Secretary, H.D.M.S. The instruments were received with gratitude by Lt. Harvey N. Lozman, ship doctor and Lt. Commander Richard D. Collier, ship dentist. The S.S. Springfield plans to sail on November 4 to the Mediterranean.

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The Parking Problem

It is hardly necessary to point out that many sacrifices are expected of us as a matter of course. In return for these sacrifices we used to be given a few microscopic rewards, such as parking privileges, etc.

But even this privilege has been taken away from us of late. I recently received a ticket for parking in front of the Wesson Memorial Hospital. I had parked on the same spot innumerable times, and once was even told by a policeman expressly that it was all right for me to do so, although the place was prohibited to others.

If this continues it will place a serious obstacle to the few remaining practitioners still willing to make house calls. Parking spaces are very often at a premium, particularly on certain evenings. Recently in the Plainfield Street section, for miles, every spot, legal or illegal, was occupied by people attending a sports event.

While the individual physician can do very little, it might be well for our Medical Society to lodge a protest with either the police department or with other responsible authorities.

Walter Newman, M. D.
Springfield

A Plea for Cooperation

Dear Hippocrat:

The Visiting Nurse Association is a Red Feather agency in our communities for the benefit of our patients. Those of us who have used this service will appreciate that it is of great benefit also to the physician. The VNA functions as any other nursing service, namely that of carrying out the doctor's orders. It can give service only on the doctor's orders. There are forms available in all the hospitals that the doctor is encouraged to use whenever he wishes his patient to be visited at home by the VNA. If there is the slightest question in reference to medication, the VNA will call the doctor for verification, and no treatment will ever be instituted without a doctor's approval or prescription.

The Visiting Nurse cannot give injections, change catheters, or do dressings on a patient's request. Sometimes the patients do not realize this and call the VNA directly. In these instances, the VNA will check with the doctor for specific orders. If you receive such a call, please cooperate. It will benefit your patient and will protect you as well as the VNA.

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IN MEMORIAM

EDWARD J. ROY, M.D.

1903-1963

Dr. Edward J. Roy of Wilbraham died at his home on October 19, 1963.

Born in Hartford, Conn. on September 22, 1903, Dr. Roy attended the University of Vermont and graduated from the latter's medical school in 1932. After completing his internship at the Springfield Hospital in 1934, he entered into the general practice of medicine in the Indian Orchard section of Springfield, Mass.

Dr. Roy was on the medical staffs of the Springfield Hospital, Wesson Memorial Hospital, Wesson Maternity Hospital, Mercy Hospital, and Ludlow Hospital. He was a member of the American Medical Association, the Mass. Medical Society, the Hampden District Medical Society, and the Springfield Academy of Medicine. He also served in the U.S. Army Medical Corps. during World War II and was decorated for meritorious service.

Deepest sympathy is hereby extended to his family and to his many friends and associates.

COUNCIL ATTENDANCE

Hampden councilors turned out in force to attend the recent meeting of the Council of the M.M.S. The following were in attendance: Drs. Allan, Bagg, Byrnes, Gillis, Johnson, Memery, Miller, Millman, Miner, Murray, O'Malley, Palermo, Potsubay, Putnam, Reilly and Tillman.

THE MEDICAL CREDITS DIVISION

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THE A.M.A. RETIREMENT PLAN
(FINAL REPORT)

Until this year, self-employed individuals, including physicians, have always been at a disadvantage taxwise in setting up pension plans. Congress corrected this situation in part by passing the Keogh Bill which was signed into law on October 10, 1962, (Public Law 87-792). This law permits a self-employed individual to set up a qualified retirement fund up to $2500 or 10% of his annual income, whichever is less, one-half of which is tax deductible. The details of the provisions of this law were published in the Hippocrat of February, 1963 and again in the issue of September, 1963, in which it was indicated that the A.M.A. had initiated a study to determine the best pension plan for physicians and their employees under the new law. The recently announced Members' Retirement Plan is the result of this study. It offers definite advantages for physicians in that it provides both a variable investment fund and an annuity insurance, with each physician determining for himself the proportion of his funds to be invested in either or both. Diversity of investment will be possible with the large number of physicians and their employees participating, and this also lowers per unit cost of administration, as well as providing the advantages of mass buying.

The Plan provides for a trusteed fund, one portion of which is invested in an equity investment fund, while a second portion will be used for an insurance annuity. The equity portion of the plan will grow from additional contributions, dividends, interest, growth of securities, etc. The Board of Administrators with their advisors investigate each security before purchase, with capital appreciation as their chief goal.

The funds assigned to annuities are placed with major insurance companies at guaranteed interest rates plus participation in excess profits earned by the company.

Eligibility

Eligibility to participate in the plan is limited to A.M.A. members who are self-employed U.S. citizens, and also their employees. Those full time employees who have worked for the physician for three years or longer must be included, with the contribution for the employee being proportional to the amount the physician invests for himself. A full time employee is defined as one who has worked more than twenty hours per week for more than five months per year.

The amount of the contribution is regulated by law and is limited to 10% earned income or $2500 whichever is less, one half of which is tax deductible. An additional 10% or $2500 whichever is less may be added voluntarily, but this amount is not tax deductible.

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However, the entire amount contributed for employees is tax deductible. The employee is also permitted to make an additional contribution to a maximum of 10% of salary or $2500 whichever is less.

Contributions will be received quarterly and physicians will receive notices from the A.M.A. when payments may be made. These payments will be in multiples of ten dollars. At the time of application for membership in the plan, each participant indicates which portion of the plan he wishes to invest in, or what proportion of each if he wishes to use both. This proportion may be changed in any quarter.

Benefits

Benefits from pension plans may start at age 59½ years or upon permanent disability or death. If pension funds are distributed sooner, all deferred taxes plus a penalty of 10% must be paid. Benefits in any case must be distributed at age 70½ years, but the amount which must be withdrawn is not certain until the Internal Revenue Service regulations clarify this point. It is not necessary to retire in order to draw retirement benefits, but the tax savings will depend on other income and exemptions.

Benefits may be withdrawn either in installments or in a lump sum. These benefits are taxed as ordinary income. However, since a lump sum would place the physician in a higher tax bracket, a special formula has been devised to correct this inequity. The tax is computed on 20% of the distribution, and a tax equal to 5 times

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this amount is levied.

The plan will be administered by the Executive Committee of the Board of Trustees of the A.M.A. who will act as a Board of Administrators. This Board will administer the plan, instruct the trustees on purchases and sales of securities for equity fund, and make regular reports to each contributor on the status of his account.

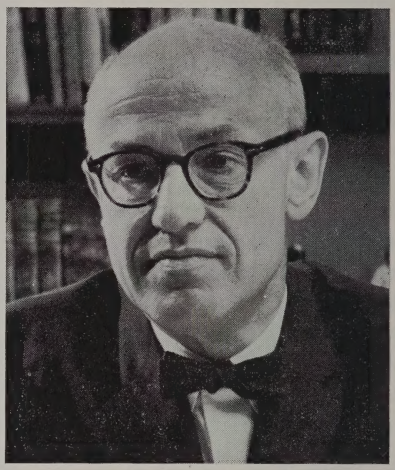
The A.M.A. will receive all contributions to the retirement plan and deliver that portion of the funds designated for equity investment to a national bank to serve as trustee. The trustee holds this money for investment subject to the direction of the Board.

That portion of the fund designated for insurance annuities will be turned over to leading insurance companies. The A.M.A. will arrange a group participation contract with these companies with dividends and excess profits used to provide additional annuity benefits.

To provide tax benfits for 1963 the A.M.A. has rushed completion of the plan so that members may join before the end of the year. An initial contribution of at least $100 will be required for this year together with a signature on a short form agreement. *Most A. M.A. members have already received application forms for registration with the A.M.A. plan.* Those wishing adtional information may write to the A.M.A., 535 North Dearborn Street, Chicago, Illinois, 60610.

Tillman

ACADEMY



Dr. Franz S. Ingelfinger

At the December 10 meeting of the Springfield Academy of Medicine the speaker will be Franz S. Ingelfinger, M.D., Professor of Medicine, Boston University School of Medicine. His topic will be "Practical Points in Diagnosis of Malabsorption Syndrome." The clinical conference will be held at the Mercy Hospital.

At the January 14 meeting of the Springfield Academy of Medicine the speaker will be F. William Sunderman, M.D., Clinical Professor of Medicine, Jefferson Medical College of Philadelphia. His topic will be "Advances in Diagnosis by Newer Chemical Procedures." The clinical conference will be held at the Springfield Hospital.

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SURGICAL
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SEMPER SURSUM

by

Edward P. Bagg

(This is the second installment of an address delivered at a dinner honoring Drs. Bagg and Bigelow on their 50th professional anniversary.

Editor)

Twigs are medically bent.

Boston, the so-called Athens of America, is blessed with three excellent medical schools,—and a fourth is gaining prominence in near-by Waltham. There are a number of well equipped hospitals and clinics which have won world recognition and the Boston Medical Library furnishes the best of reference material. Being a seaport, the variety of maladies that need diagnosis and treatment is greatly enhanced, and the resources of Harvard, Tufts and Boston University furnish top-grade teachers. Fortunate is he who can train there for a medical career.

Jim Bigelow made the most of the pre-medical and medical courses at Tufts, and took his hospital training in New York City at St. Vincent's from 1911 to 1913, and the New York Foundling Hospital the following year. On returning to Holyoke, he acted as City Physician for two years. The high quality of his work and his conscientious application laid the foundation for a most satisfying successful practice which still goes on.

From the rarified heights looking back over the years, it is possible to trace the progress of the other particular pilgrim as "I walked," like John Bunyan, "through the wilderness of this world." From the pious, small town fireside that offered shelter from the harsh winds that agitate the world of men, up through the 'Valley of Humiliation', the temptations, trials, backsliding and narrow escapes, is a long tortuous trail truly Bunyanesque in detail, that mercifully shall be edited to sufferance.

Fortunately for me, the new buildings of Harvard's Medical School on Longwood Avenue in Boston were just finished and contained extra space that needed filling. More than that, Pres. Charles W. Eliot had built up a splendid faculty. A young and forward-looking Dean was chosen, Dr. Henry Christian, who with Harvey Cushing helped to organize the adjacent Peter Bent Brigham Hospital. Dr. Otto Folin introduced the new approach to physical chemistry that replaced older concepts, and "Billy" Councilman modernized the teaching of pathology. The fundamental courses of anatomy and histology were ably presented by Prof. Thomas Dwight and George Minot's uncle James Walter B. Cannon was outstanding as a physiologist both as a teacher and in research, while Franz Pfaff, fresh from the jungles of South America, made pharmacology entertaining with "ziss frog", and convincing as well.

The omission of so many other significant names seems invidious, but time presses. However, the friendship with such men as Elliott P. Joslin that extended from student days until his recent death, and with Frank H. Lahey of subsequent Lahey Clinic fame, who taught me surgical technique, should be mentioned. Another friend, who died last year along with the two mentioned, was Dwight O'Hara, late Dean of the Tufts Medi-

cal School, who preceded me in the office of President of the Massachusetts Medical Society. His major accomplishment was guiding the development of the Medical School to such a noteworthy degree.

But the intimacy with so many exceptional classmates was for me an inspiration that still exists, though many now, alas, function only in retrospect. To be able to know and to rely on men like Paul D. White, the two Jims, Means and O'Hare, Al Hornor and Harry Forbes — all of 1911 — as well as many from other classes, such as internists George Minot and Chester Jones; Arthur Allen, Leland McKittrick and Charlie Lund for surgeons, including William MacAusland in orthopedics and Vascular Surgeon Linton who did me the great favor of tieing off my leg veins when a mean little pulmonary embolus spoiled my home-going from the Phillips Club two weeks after "Jimmy" Allen had removed my appendix — and a diverticulum as a dividend. I am indebted also to Charlie Lund's father for his forebearance and remarkable control when I gave my first ether for a hemorrhoidectomy in the Boston City Hospital. The eminent surgeon was startled, though not so much as was his anesthetist, when the patient sat up on the operating table at the primary insertion of the gloved finger. The reserves were called up and in time the victim was subdued sufficiently to permit Dr. Lund to re-enter the supersensitive operative field. Another outstanding operator who put himself out for students, Dr. John Munro was the head of the surgical staff of the Carney Hospital, and the father of another young friend, Donald Munro of a later H.M.S. class. I remember Dr. John getting down on his hands and knees to find a special instrument from a lower shelf to demonstrate, one that he himself had designed.

Peculiarly enough, the record shows that I beat out P. D. White, the most brilliant man in 1911, for next to the last appointment to the Massachusetts General Hospital, so fallible is human judgment! He joined the West Medical Service under Richard Cabot, alias "Dotty Dick", while I was destined to be the first House Pupil to work under the new chief, Dr. David L. Edsall to whom the reorganizing of medical teaching both in the Hospital and Medical School was entrusted. Each morning during my senior service, as we made the rounds of the wards, I introduced the patients, each in turn, with their histories and laboratory findings for the Chief to examine. Then came inspection and the search for underlying pathology or its simulacrum. The thorough examination of the various systems, followed by means of the examiner's keen senses aided by gadgets, old and new. Meanwhile pertinent citation of information from his wide experience and even wider reading were offered for the benefit of interested internes to fit individual cases. The questions of diagnosis eventually would be debated and recorded. Not i n f r e q u e n t l y, though, the pathologist's report would add the corrected last word.

(to be continued)

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REFERENCES:

1. Kocsis, L.F.: Evaluation of a New Anorectic Combination in the Treatment of Obesity, Manitoba M. Rev. *41*:521 (Oct.) 1961.
2. Stevenson, L.E.: A Note on Anorectics, M. Ann. District of Columbia *30*:409 (July) 1961.
3. Cauffman, W.J., and Pauley, W.G.: Obesity and Emotional Status, Pennsylvania M.J. *64*:505 (Apr.) 1961.

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COUNCIL MEETING HIGHLIGHTS

The meeting of the Council of the M.M.S. was held on October 9, 1963, a week later than usual so that the Executive Committee would not have to meet on the Labor Day weekend.

Dr. Allen Johnson presided in his usual inimitable fashion and kept the meeting moving well. New committee appointments of interest to the Hampden District were: Dr. Whitney, to the Committee to explore the feasibility of psychiatric care in general hospitals, and Dr. Reilly to the Committee to re-appraise the status of present committees.

Dr. Lepreau's resolution that the after care of surgical patients be the responsibility of the surgeon only and that no fee be deducted from the Blue Shield payments to the attending physician was hotly debated and eventually defeated.

Our Resolutions Approved

The Hampden resolution relative to Community Control of the proposed local Mental Health Center was taken from the table and approved by the Council without opposition.

Reports of Committees were then considered. A Joint Conference Committee with the Massachusetts Pharmaceutical Society was authorized. Dr. Thomas Reilly of Hampden is a member of this committee.

The Hampden District resolution relative to the publicizing of the Kerr-Mills law was approved without debate, as was a resolution introduced by Dr. Overholt that the dangers of cigarette smoking be publicized and that an educational campaign be directed toward the young in our schools.

Informational reports on State Legislation, National Legislation, Medical Education and Finances were not debated.

A recommendation that the fee schedules of the Veteran's Administration be approved was contested and the Committee was instructed by the Council to re-appraise those fees as on many occasions the doctor was paid per visit less than the visiting nurse.

Resolutions of the Hampden District and of Dr. Pilcher were combined. These dealt with payments to physicians when ward patients carried some form of insurance. These were approved. A resolution that the administration of the Kerr-Mills law be transferred from the Welfare Department was tabled pending the outcome of the suit filed by the Massachusetts Medical Society against the Welfare Department.

The Committee on Arrangements again wished to remind the members of the M.M.S. to attend the annual meeting at the Statler Hilton Hotel on May 19, 20 and 21st, 1964, and asked that hospitals and societies not schedule meetings on those dates.

Change in By-laws

Changes in by-laws were approved.

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The first made the Supervising Censor chairman of the Membership Committee of District Societies, and second permitted simple majority vote instead of 2/3 to override the report of the Finance or Membership Committee. This had been a point of dissention for many years and was finally resolved by a 93 to 79 vote. A proposal to permit the secretary to be other than a councilor was defeated.

The Advisory Committee on Blood Banks was permitted to change its name to the Committee on Blood Banks. The Insurance Committee was not granted status of a standing committee but under the re-organization plans of the Society their procedures were adopted as a code for future guidance of its committees.

A resolution by Dr. Pina relative to mental health units in general hospitals was approved.

The Disaster Medical Care, Pooled Funds, and New England Medical Societies reports were informational and passed with small argument.

A.M.A. Invited

A Resolve to invite the A.M.A. to hold an interim session in Boston at the earliest possible time was approved.

Supplementary report of the Ad hoc Committee on mental health recommending: (1) Increased general hospital care of psychiatric illness; (2) Continued negotiations with Blue Cross-Blue Shield for coverage of such illness in general hospitals; (3) Encourage individual and Society plans for coverage of mental illness, and (4) Development of care for psychiatric illness of all categories was accepted and referred to appropriate committees.

New resolutions by Middlesex East that in view of the rejection by the insurance commissioner of the Blue Shield fee schedule, that the M.M.S. learn what private fees are and make studies of the increased income of the subscribers and the increased benefits to the physician as a collecting agency, was approved.

Approved also was a resolution by the Berkshire District that race and creed have no place in the picture of medicine, was approved.

Meeting adjourned at 4:10 P.M.

Miller

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1. The physician must care for every patient with scrupulous attention given to the requirements of good medical practice.

2. The physician must know and exercise his legal duty to the patient.

3. The physician must avoid destructive and unethical criticism of the work of other physicians.

4. The physician must keep records which clearly show what was done and when it was done, which clearly indicate that nothing was neglected, and which demonstrate that the care given met fully the standards demanded by the law. If any patient discontinues treatment before he should, or fails to follow instructions, the records should show it; a good method is to preserve a carbon copy of the physician's letter advising the patient against the unwise course.

5. The physician must avoid making any statement which constitutes, or might be construed as constituting, an admission of fault on his part. He should instruct employees to make no such statements.

6. The physician must exercise tact as well as professional ability in handling his patients and should insist on a professional consultation if the patient is not doing well, if the patient is unhappy and complaining, or if the family's attitude indicates dissatisfaction.

7. The physician must refrain from overoptimistic prognoses.

8. The physician must advise his patients of any intended absences from practice and recommend, or make available a qualified substitute. The patient must not be abandoned.

9. The physician must unfailingly secure an "informed" consent (preferably in writing) for medical and surgical procedures and for autopsy.

10. The physician must carefully select and supervise assistants and employees and take great care in delegating duties to them.

11. The physician must keep abreast of general medical and scientific progress.

12. The physician should limit his practice to those fields which are well within his qualifications.

13. The physician must frequently check the condition of his equipment and make use of every available safety installation.

14. The physician should make every effort to reach an understanding with his patient in the matter of fees, preferably in advance of treatment.

15. The physician must realize that it is dangerous to diagnose or prescribe by telephone.

16. The physician should not sterilize a patient solely for the patient's convenience, except after a reasonably complete explanation of the procedure

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nd its risks and possible complications and after obtaining a signed consent from the patient and from the patient's spouse if the patient is married. Such sterilization is a crime in Connecticut, Kansas, and Utah and should not be performed in those states. Eugenic sterilization should be performed only in conformity with the law of the state, if any. Sterilization for therapeutic purposes may lawfully be performed with the informed consent of the patient and preferably with the informed consent of the patient's spouse, if the patient is married.

17. Except in an actual emergency situation which makes it impossible to avoid doing so, a male physician should not examine a female patient unless an assistant or nurse, or a member of the patient's family, is present.

18. The physician should exhaust ll reasonable methods of securing a iagnosis before embarking upon a therapeutic course.

19. The physician should use conservative and less dangerous methods of diagnosis and treatment wherever possible, in preference to highly toxic agents or dangerous surgical procedures.

20. The physician should read the manufacturer's brochure accompanying a toxic agent to be used for diagnostic or therapeutic purposes, and, in addition, should ascertain the customary dosage or usage in his area.

21. The physician should be aware of all the known toxic reactions to any drug he uses, together with the proper methods for treating such reactions.

—J.A.M.A., Feb. 23, 1963

MEDICAL ASSISTANTS ARE CERTIFIED

Thirty-two medical assistants took the certification examination given in Miami Beach during the recent A.A.M.A. convention. The test was also given in Fulton, California, and Lawrence, Kansas, bringing the total of those taking the first exam to 112. Results will be announced December 15. The next exam will be given in June, 1964, in Georgia, Wisconsin, New York, Oklahoma and California. The application deadline is February 15.

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DR. LEARY RESIGNS

After seven years of dedicated service, Dr. John E. Leary resigned on October 26, 1963 as Secretary and Business Manager of the Board of Editors. This he did regretfully because of planned prolonged absence from this area.

The resignation of Dr. Leary constitutes a distinct loss to the Hippocrat which he helped to develop from a small quarterly to a full grown monthly bulletin. His wisdom and business acumen will be sorely missed. The least we can do, by way of gratitude, is to wish him the best of everything for many years to come.

M. M.

Removal of office: Dr. Samuel Feldman to 52 Mulberry Street, Springfield.

Are you interested in joining the Speakers Bureau? If so, contact H. D.M.S. headquarters.

The opinions expressed in The Hippocrat do not necessarily represent the Official viewpoint of the Hampden District Medical Society.

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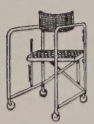

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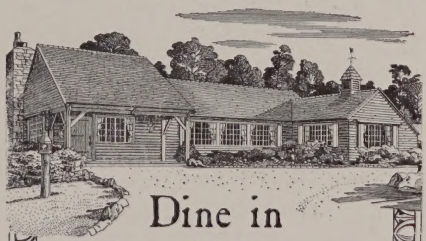

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